

Nonprofit Sales or Use Tax-Exempt Organizations – Explanation of Allowable Use of an Exemption Certificate

Sales &
Use tax
notice
#03-22

The department has completed a periodic review of all registered nonprofit entities to determine their continued eligibility for sales and use tax exemption certifications.

As a result of this review process, all eligible in-state nonprofit entities have received a new sales and use tax exemption certificate with an effective date of July 1, 2003.

Nonprofit exemption certificates may be used to buy, free of sales tax, goods and services that the nonprofit will use, consume, or give away. The exemption does not cover items that the nonprofit will resell except in limited situations outlined below.

Tenn. Code Ann. Section 67-6-102(2), provides a sales and use tax exemption for organizations that hold no more than two sales per calendar year for periods of 30 days or less. If the organization holds three or more such sales, **proceeds from all events will be subject to tax**, including proceeds from the first two that were held.

Organizations holding more events than allowed under the provision outlined above must pay sales tax in one of two ways. Under Revenue Rule 1320-5-1-.63(4), if the organization sells no more than \$400 per month (\$4,800 per year) in gross sales of tangible personal property and pays tax to the supplier at the time of purchase, the organization does not have to register as a dealer for the purpose of sales tax collection and payment.

Organizations selling more than \$400 per month (\$4,800 per year) in goods and services are required to register as a dealer for sales and use tax purposes. Registration allows the organization to buy goods for

resale, without payment of tax to the supplier, and requires the organization to collect and remit the state and local sales tax to the Department of Revenue. A separate registration application from the one used to apply for exemption is required.

Tenn. Code Ann. Section 67-6-348, states that organizations that have a current I.R.C. sec. 501(c)(3) certification may sell used clothing to consumers without collecting sales tax. This exemption does not extend to other types of tangible personal property and is not available nonprofits do not have 501(c)(3) certifications. In order to sell used clothing free of sales tax qualified organizations must submit a completed copy of form number RV- F1307801 along with a current and valid 501(c)(3) exemption certificate to the department. A special certificate documenting the right to sell used clothing free from tax will be mailed to all eligible organizations upon receipt of the required information.

Under Tenn. Code Ann. Section 67-6-102(25)(H), schools (K-12) and school support groups that hold more than the two exempt sales per calendar year permitted by Tenn. Code Ann. Section 67-6-102(2) must pay sales tax to the supplier of any tangible personal property or services purchased for resale. If tax is not paid to the supplier (such as an out-of-state supplier not registered to collect the tax), it must be paid by the organization, based upon the purchase price of all tangible personal property or services purchased for resale.

Tenn. Code Ann. Section 67-6-212 lists the amusement, recreation, or entertainment events that are generally subject to sales tax. Tenn. Code Ann. Section 67-6-330 provides a list of exemptions for which nonprofit

organizations and schools may not need to collect sales tax. As a general rule, if a nonprofit organization or school promotes, produces and controls the entire event, admission charges are exempt. However, if outside professional entertainers are used, charges for admission generally become subject to the sales tax. While activities of this type are services and do not count toward the two events per year exemption, sales of tangible personal property, such as concessions, during the event do count as a

temporary sales period. Admissions to athletic events for sports teams of schools (K-12) are exempt from the sales tax.

If you have any questions concerning this change, please contact the Tennessee Department of Revenue, Taxpayer Services Division, at (615) 253-0600 or, within Tennessee only, (800) 342-1003.

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